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(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Petitioner
PAUL RYKEN and ESTATE OF NICK VAN VLIET
7

8 BEFORE THE
9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
10

11 In the Matter of the Estate of Nick Van
Vliet and Paul Ryken's Petition for Review
12 of Action and Failure to Act by the
California Regional Water Quality Control
13 Board, Lahontan Region, in Issuing
Cleanup and Abatement Order No. R6V-
14 2008-0341.,

Case No.

**OBJECTIONS TO INVESTIGATIVE
ORDER NO. R6V-2010-0028 FOR
ADDITIONAL INFORMATION ON
ALTERNATE WATER SUPPLY
EVALUATION; and PETITION FOR
REVIEW AND REQUEST FOR HEARING
TO BE HELD IN ABEYANCE**

**(Cal. Water Code §§ 13320, 13221,
California Code of Regulation § 2050.5(d))**

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19 Pursuant to section 13320 of California Water Code and section 2050, *et seq.*, of Title 23
20 of the California Code of Regulations, the Estate of Nick Van Vliet and Paul Ryken (collectively
21 "Desert View Dairy") hereby petition the State Water Resources Control Board ("State Board")
22 to review and vacate the final decisions of the California Regional Water Quality Control Board
23 for the Lahontan Region ("Regional Board") in the Investigative Order No. R6V-2010-0028 for
24 Additional Information on Alternate Water Supply Evaluation, Hinkley, San Bernardino County –
25 Amended Cleanup and Abatement Order (CA0) No. 6B36040900 ("Investigative Order")
26 attached hereto as **Exhibit A**.

27 Pursuant to section 2050.5 of the California Code of Regulations, Desert View Dairy
28 requests that the State Board hold the Petition in abeyance for the maximum time period

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1 permitted under its procedures and policies. Desert View Dairy submits this Petition to reserve
2 its rights for review of the Investigative Order by the State Board. In the event it becomes
3 necessary to activate this Petition, Desert View Dairy reserves the right to supplement this
4 Petition with evidence, legal argument and additional information as it deems appropriate.

5 **I.**

6 **NAMES AND ADDRESSES OF PETITIONERS**

7
8 Paul Ryken
Desert View Dairy
37501 Mountain View Road
9 Hinkley, CA 92347

Estate of Nick Van Vliet
c/o Gary B. Genske
1835 Newport Blvd., Suite D-263
Costa Mesa, CA 92627

10 Petitioners may be contacted through counsel of record:

11 Gregory S. Mason, # 148997
12 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
13 P.O. Box 28912
5 River Park Place East
Fresno, CA 93720-1501
14 Telephone: (559) 433-1300
15 Email: greg.mason@mccormickbarstow.com

16 **II.**

17 **SPECIFIC ACTION FOR WHICH THIS PETITION FOR REVIEW IS SOUGHT**

18 The Regional Board action that is the subject of this Petition is the issuance of the
19 Investigative Order, and all actions that Desert View Dairy needs to take in response to the
20 Investigative order, including, but not limited to, submitting a work plan detailing Alternate
21 Water Supply implementation for interim long-term and/or uninterrupted replacement water that
22 allows for all domestic uses for all private wells with nitrate as NO₃ concentrations exceeding 45
23 mg/L and/or providing interim and/or long term water supply to "affected" residences and/or for
24 any other purpose. See **Exhibit A**.

25 **III.**

26 **THE DATE THE REGIONAL BOARD ACTED.**

27 The Regional Board issued an Amended Cleanup and Abatement Order No. R67V02008-
28 0034A2 on March 9, 2009. A Petition for Review and Request for Hearing to be Held in

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1 Abeyance was filed by Desert View Dairy in response thereto. The Regional Board subsequently
2 issued the Investigative Order No. R6V-2010-0028 for Additional Information on Alternate
3 Water Supply Evaluation, Hinkley, San Bernardino County – Amended Cleanup and Abatement
4 Order (CA0) No. 6B36040900. *See Exhibit A.*

5 **IV.**

6 **OBJECTIONS TO INVESTIGATIVE ORDER NO. R6V-2010-0028**
7 **FOR ADDITIONAL INFORMATION ON ALTERNATE WATER SUPPLY**
8 **EVALUATION, AND STATEMENT OF THE REASONS THE ACTION IS**
9 **INAPPROPRIATE AND IMPROPER**

10 The Investigative Order is improper, inappropriate, arbitrary and capricious for the
11 following reasons:

12 (1) The Regional Board’s findings in the Investigative Order are not supported by
13 evidence in the record, and, in fact, is contrary to such evidence;

14 (2) The Investigative Order was issued without a hearing or opportunity to respond.
15 Desert View Dairy was afforded no opportunity to formally introduce evidence on the record;

16 (3) The Investigative Order requires Desert View Dairy to submit technical reports
17 and perform investigations under arbitrary and capricious time frames;

18 (4) The Investigative Order seeks to hold Desert View Dairy solely responsible for
19 actions of parties over whom it has no control;

20 (5) The Investigative Order fails to make any attempt to apportion liability and/or the
21 costs of remediation between all responsible parties, e.g., Pacific Gas and Electric Company, and
22 moreover, fails to find Pacific Gas and Electric Company to be a “primary responsible” party;

23 (6) The Investigative Order does not take into consideration the fact that any
24 discharges by Desert View Dairy were pursuant to the consent of the Regional Board and its
25 waiver of any waste discharge requirements imposed by law;

26 (7) The Investigative Order is vague and uncertain as to the extent clean water is to be
27 provided to the four affected residences; the scope of the water service and the indefinite and/or
28 impracticable time period Desert View Dairy is obligated to do sampling and submit technical

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1 reports to the Regional Board and/or evaluate alternative water supply implementation for long-
2 term, uninterrupted replacement water for residences with domestic wells; and

3 (8) The Investigative Order arbitrarily seeks to impose administrative civil fines in
4 violation of Desert View Dairy's due process rights.

5 In light of Desert View Dairy's request that the Petition be held in abeyance, Desert View
6 Dairy reserves the right to submit an additional statement of reasons as to why the action taken by
7 the Regional Board was inappropriate and improper in the event the Petition is activated.

8 V.

9 **PETITIONERS ARE AGGRIEVED**

10 Desert View Dairy is, and will be, adversely affected by the actions taken by the Regional
11 Board. Desert View Dairy is aggrieved in that it is required by an overbroad and unsubstantiated
12 Investigative Order to expend substantial funds to provide alternate sources of water for all
13 domestic uses to four properties, to prepare and submit a work plan with different options for
14 alternate water supply, and to conduct testing to verify that clean water is being provided to
15 owners of impacted water wells, for which Desert View Dairy has no legal responsibility.

16 Furthermore, Desert View Dairy has been aggrieved by the process used by the Executive
17 Officer. The Investigative Order fails to set forth the evidence relied upon by the Regional Board
18 in support of this action and there has been no formal hearing or development of evidentiary
19 records. This has left Desert View Dairy with no meaningful ability to evaluate an evidentiary
20 record on which to seek review of the Investigative Order.

21 The Investigative Order also imposes duplicative and unnecessary requirements on Desert
22 View Dairy and subjects Desert View Dairy to the risk of penalties if the Regional Board believes
23 that other responsible parties have not complied with the Investigative Order.

24 For all reasons set forth above, Desert View Dairy's legal and constitutional rights have
25 been violated.

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VI.

PETITIONERS' REQUEST FOR ACTION BY THE STATE BOARD

Desert View Dairy seeks an Amended Order by the State Board to hold this Petition in abeyance for the maximum time period permitted under its procedures and policies or until Desert View Dairy requests action on this Petition.

Desert View Dairy Reserves the right to request any and all actions authorized by California Water Code section 13320. Desert View Dairy does not request a stay of proceedings at this time, but reserves the right to do so in the future.

VII.

STATEMENT OF POINTS AND AUTHORITIES

Desert View Dairy respectfully requests that this Petition be held in abeyance pursuant to Section 2050.05 of the California Code of Regulations and reserves the right to submit its Points and Authorities should this Petition become activated. However, attached as **Exhibit A** to the Declaration of Gregory S. Mason in Support of Objections To Investigative Order No. R6v-2010-0028 For Additional Information On Alternate Water Supply Evaluation; and Petition For Review And Request For Hearing To Be Held In Abeyance, which is incorporated herein by this reference, is the report prepared by Conestoga-Rovers & Associates entitled "Technical Evaluation of Existing Data, Desert View Dairy" for consideration. Therein, evidence is adduced to establish, clearly, that Pacific Gas and Electric Company, through its groundwater discharge activities on land south and west of Desert View Dairy, discharges approximately ten times the mass of nitrate per acre compared to the current operations of Desert View Dairy. The Investigative Order fails to address Pacific Gas and Electric's primary responsibility

Moreover, Desert View Dairy respectfully submits that it not been afforded adequate due process in these proceedings, as required by state and federal law. An administrative agency, in exercising adjudicatory functions, "is bound by the due process clause of the fourteenth amendment [of] the United States Constitution to give the parties before it a fair and open hearing." (Kaiser Co., Inc. v. Industrial Accident Commission et al. (1952) 109 Cal.App.2d 54, 60 [240 P.2d 57, 58].) The fundamental requirement of due process is "the opportunity to be

1 heard at a meaningful time and in a meaningful manner.” (F. David Matthews v. George H.
2 Eldridge (1976) 424 U.S. 319, 333 [96 S.Ct. 893, 902].) Under federal law, at a minimum, an
3 individual “entitled to due process should be accorded: written notice; disclosure of adverse
4 evidence; the right to present witnesses and to confront adverse witnesses; the right to be
5 represented by counsel; a fair and impartial decision maker; and a written statement from the fact
6 finder listing the evidence relied upon and the reasons for the determination made.” (Roger
7 Burrell v. City of Los Angeles et. al. (1989) 209 Cal.App.3d 568, 577 [257 Cal.Rptr. 427, 432].)
8 Similarly, the Supreme Court of California states that in an administrative setting procedural due
9 process “requires notice of the proposed action; the reasons therefore; a copy of the charges and
10 materials on which the action is based; and the right to respond to the authority initially imposing
11 the discipline ‘before a reasonably impartial, noninvolved reviewer.’” (Burrell, supra, 209
12 Cal.App.3d at 581 citing Williams v. County of Los Angeles (1978) 22 Cal.3d 731, 736-737 [150
13 Cal.Rptr. 475].) Each of the foregoing due process requirements has not been met in the instant
14 matter. As such, the Investigative Order is not enforceable.

15 Desert View Dairy, therefore objects to the aforementioned cleanup and abatement orders,
16 and respectfully requests a full hearing as to all issues raised therein.

17 VIII.

18 STATEMENT OF TRANSMITTAL OF PETITION TO THE REGIONAL BOARD

19 AND INVOLVED PARTIES

20 A true and correct copy of this Petition was transmitted to:

21
22 Harold J. Singer, Executive Officer
23 California Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, California 9 96150

24 A true an correct copy of this Petition was also sent to Flameling Dairy, Inc., Pacific Gas
25 and Electric Company, and K&H Van Vliet Children, LLC, which are named in the Investigative
26 Order, but are not Petitioners, at the following addresses:

1 Flameling Dairy, Inc.
2 c/o Bert & Kathleen A. Flameling
2088 Candlewood Avenue
3 Twin Falls, ID 83301-8338

4 K&H Van Vliet Children, LLC
c/o Nellie Ruisch
23925 Waalew Road
5 Apple Valley, CA 92307-6932

Robert Doss
Mail Code B16A
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105-1814

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7 **IX.**

8 **SUBSTANTIVE ISSUES RAISED BEFORE THE REGIONAL BOARD**

9 Desert View Dairy was never given an opportunity to review and/or challenge the
10 determinations made by the Executive Officer in support of the Investigative Order. However, in
11 the event that this Petition is activated, Desert View Dairy reserves the right to present evidence
12 at the hearing that it deems appropriate to challenge the Investigative Order.

13 Dated: August 9, 2010

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

14
15 By: 

16 Gregory S. Mason
17 Attorneys for Petitioner
18 PAUL RYKEN and ESTATE OF NICK
19 VAN VLIET
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EXHIBIT “A”



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

JUL 08 2010

Paul Ryken
Desert View Dairy
37501 Mountain View Road
Hinkley, CA 92347

Estate of Nick Van Vliet
c/o Snell & Wilmer LLP
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689

Flameling Dairy, Inc.
c/o Bert and Kathleen A. Flameling
2088 Candlewood Avenue
Twin Falls, ID 83301-8338

K&H Van Vliet Children LLC
c/o Nellie Ruisch
23925 Waalew Road
Apple Valley, CA 92307-6932

Robert Doss
Mail Code B16A
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77 Beale Street
San Francisco, CA 94105-1814

**INVESTIGATIVE ORDER NO. R6V-2010-0028 FOR ADDITIONAL INFORMATION ON
ALTERNATE WATER SUPPLY EVALUATION, HINKLEY, SAN BERNARDINO
COUNTY—AMENDED CLEANUP AND ABATEMENT ORDER (CA0) NO. R6V-2008-
0034A2**

On April 20, 2010, the Lahontan Water Board received the *Alternate Water Supply Evaluation (Evaluation)*, pursuant to order No. 1 of CAO R6V-2008-0034A2. The CAO was issued to the responsible parties of the Desert View Dairy (DVD) for nitrate pollution of groundwater affecting beneficial uses. The Evaluation describes three options for providing alternate water supply to off-site affected residents: treatment of existing groundwater supplies using reverse osmosis, providing a new community water supply, and providing new individual replacement water supply wells.

California Environmental Protection Agency



Recycled Paper

Comments

Water Board staff's review of the Evaluation, prepared by Conestoga-Rovers, finds it to be incomplete. The Evaluation does not provide a recommended option and schedule for implementation of a long-term alternate water supply as required in order No. 1 of CAO R6V-2008-0034A2. The responsible parties have therefore not fully complied with the Cleanup and Abatement Order and maybe subject to additional enforcement action.

Due to the incomplete nature of the Evaluation, I am directing the responsible parties for the DVD to submit additional information to the Water Board. Because the time to submit this additional information will extend the schedule for implementing the selected long-term water supply alternative, I am also requiring that you provide a workplan to supply *interim* water for all domestic uses to the affected residents that complies with the July 30, 2010 deadline in order No. 2 of CAO R6V-2008-0034A2.

Report Justification

Water Board staff believes that, in light of the following facts, there is evidence to support ordering that technical reports be provided in this particular situation.

1. Groundwater in the area has a designated beneficial use of municipal and domestic water supply, agricultural supply, and industrial supply.
2. Concentrations of nitrate as NO₃ reported in groundwater at domestic wells and monitoring wells located on the DVD and in the off-site downgradient flow direction, significantly exceed the California primary maximum contaminant level (MCL) of 45 mg/L, making the groundwater unsuitable for drinking and other domestic and municipal uses.
3. Concentrations of TDS, chloride, sulfate, and sodium reported in groundwater at domestic wells and monitoring wells located on the DVD and in the off-site downgradient flow direction (finding No. 3 of CAO), significantly exceed the California secondary MCL for each constituent, making the groundwater unsuitable for drinking and other domestic and municipal uses.
4. A complete evaluation describing alternative water supply implementation for long-term, uninterrupted, replacement water is necessary to consider the feasibility, capital and operation costs, and implementation schedule of each alternative in determining the appropriate course of action.

Responsible Parties

As stated in CAO R6V-2008-0034A2, operators of the Desert View Dairy, Mr. Paul Ryken and the Estate of Nick Van Vliet, and the past operator, Flameling Dairy Inc., are primarily responsible for complying with the requirements of this Investigative Order because they caused or contributed to the pollution and degradation of groundwater

from discharges at the Dairy. The owners of the Desert View Dairy, the K&H Van Vliet Children LLC and Pacific Gas and Electric Company, are secondarily responsible for complying with the requirements of this order because they are ultimately responsible for activities at the Dairy. This order of responsibility is also appropriate for this investigative order.

Order

Pursuant to Water Code section 13267, the responsible parties listed in this letter are required to submit to the Water Board the following technical reports:

1. **By July 23, 2010**, a plan and schedule to provide interim water supply to the affected residents for all indoor and outdoor domestic uses **by July 30, 2010** or as soon as feasible. Indoor and outdoor domestic uses include drinking, cooking, bathing, washing, appliances, domestic animals, landscaping, and similar uses. Interim water supply, for example, may be potable water that is trucked to residences and stored in temporary storage tanks. Interim water supply shall be provided continuously until a long-term water supply alternative is implemented and operational.
2. **By August 9, 2010**, an evaluation of alternative water supply implementation for long-term, uninterrupted, replacement water, for residences with domestic wells having polluted groundwater that complies with order No. 1 in CAO R6V-2008-0034A2. The evaluation must contain these items and discussions:
 - a. Determination of replacement water quantity needs for each individual property adversely affected by nitrates.
 - b. Reverse osmosis waste water: quantity (specify time period), quality (expected concentrations of salts), and how it will be stored and disposed such that water quality is protected.
 - c. Hydrogeologic assessment of replacement wells: how and when will you determine if suitable water quality and quantity exists beneath properties proposed for deep wells.
 - d. Proposed use of Gorman Well No. 6: any agreement for the well's use, well design and aquifer details, water quality (concentrations of nitrate, salts and chromium), and available quantity.
 - e. Estimated capital and annual operational costs for implementing each alternative, including associated equipment, utilities, and replacement costs. How will the long-term funding be guaranteed?
 - f. A recommended option and schedule for implementation of a long-term alternate water supply.

All technical documents that include engineering calculations and/or geologic or hydrogeologic evaluations submitted to the Water Board must be signed by a California licensed geologist or civil engineer.



Please be sure that a copy of all documents sent to the Water Board's South Lake Tahoe office are also sent to the Water Board's Victorville office at: 14440 Civic Drive, Suite 200, Victorville, California 93292.

If you have any questions, please contact Lisa Dernbach at (530) 542-5424 (ldernbach@waterboards.ca.gov) or Chuck Curtis at (530) 542-5460 (ccurtis@waterboards.ca.gov).



HAROLD J. SINGER
EXECUTIVE OFFICER

Enclosures: Section 13267 Fact Sheet

cc: Desert View Dairy Mailing list

lsd/ke/T: DVD alternate water eval letter 6-29-10 lsd
file: WDID 6B36040900 (VVL)



**Fact Sheet – Requirements for Submitting Technical Reports
Under Section 13267 of the California Water Code**

October 8, 2008

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Claim of Copyright or other Protection

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

If I have more questions, who do I ask?

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov. Copies of the regulations cited are available from the Regional Board upon request.

Desert View Dairy Mailing List

ERIC P. JOHNSON
PACIFIC GAS & ELECTRIC
COMPANY

ERROL NIEBERT

J. AGUAYO & J. RUNKLE

DREW PAGE

ROBERT CONAWAY

ROGER AND JEANETTE SANDOZ

DAVE GILBERT
PACIFIC GAS AND ELECTRIC

ED RIDDEL

RAY & BARBARA GROVEAU

DAVID COUPE
SWRCB /OCC

KENNETH J BORTNER

SHAIR THOMAS

SAN BERNARDINO CO,
DIV. OF ENV. HEALTH SERVICES

TOM CARY

ALBERT & LORI JACKSON

GORMAN TRUST

PAUL D. WATERS

JOSEPH GISLER

MCHENRY COOK

GREG & ELAINE KEARNEY

HERBERT V NETHERY

ROSEMARY MUNOZ

GORMAN TRUST

BENJAMIN ZEPEDA

D NORMAN DIAZ
HELPHINKLEY.ORG

DEANNA SERRECCHIA
C/O ELAINE SERRECCHIA

BOB AND KARLA WARNER

Desert View Dairy Mailing List

JOSEPH GISLER

CARMELA J GONZALEZ

BILL & JESSIE ORR

Steve Mockenhaupt
Conestova-Rovers and Associates

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a
3 party to the within action. My business address is McCormick, Barstow, Sheppard, Wayte &
4 Carruth LLP, 5 River Park Place East, Fresno, California 93720-1501. On August 9, 2010, I
5 served the within documents:

6 **OBJECTIONS TO INVESTIGATIVE ORDER NO. R6V-2010-0028 FOR
7 ADDITIONAL INFORMATION ON ALTERNATE WATER SUPPLY
8 EVALUATION; and PETITION FOR REVIEW AND REQUEST FOR HEARING TO
9 BE HELD IN ABEYANCE**

- 10 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax
11 number(s) set forth below on this date before 5:00 p.m.
- 12 ☐ **BY PERSONAL DELIVERY:** by personally delivering the document(s) listed
13 above to the person(s) at the address(es) set forth below.
- 14 ☒ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with
15 postage thereon fully prepaid, in the United States mail at Fresno, California
16 addressed as set forth below.
- 17 ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an
18 overnight delivery service company for delivery to the addressee(s) on the next
19 business day.
- 20 ☐ **BY ELECTRONIC SUBMISSION:** per court order, submitted electronically by
21 Verilaw to be posted to the website and notice given to all parties that the
22 document has been served.

23 Jeannette L. Bashaw (E-Mail & hard copy)
24 Phil Wyels (E-Mail & hard copy)
25 Legal Analyst
26 Office of Chief Counsel
27 State Water Resources Control Board
28 1001 I Street, 22nd Floor
Sacramento, CA 95814

Harold J. Singer, Executive Officer
California Regional Water Quality
Control Board
Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

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c/o Bert and Kathleen A. Flameling
2088 Candlewood Ave.
Twin Falls, ID 83301-8338

K&H Van Vliet Children LLC
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23925 Waalew Road
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1835 Newport Blvd., Ste. D-263
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5 Paul Ryken
6 Desert View Dairy
7 37501 Mountain View Road
8 Hinkley, CA 92347

J. Drew Page, Esq.
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San Diego, CA 92130

8 George R. Phillips, Sr.
9 Astor & Phillips LLC
10 800 Wilshire Blvd., 15th Floor
11 Los Angeles, CA 90017-2619

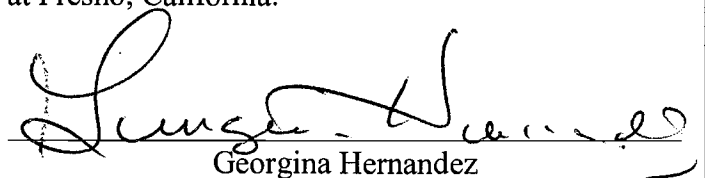
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532 West First Street, Ste. 209
Claremont, CA 91711

11 Robert Doss
12 Mail Code B16A
13 Pacific Gas and Electric Company
14 77 Beale Street
15 San Francisco, CA 94105-1814

14 I am readily familiar with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
16 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
17 am aware that on motion of the party served, service is presumed invalid if postal cancellation
18 date or postage meter date is more than one day after date of deposit for mailing in affidavit..

17 I declare under penalty of perjury under the laws of the State of California that the
18 above is true and correct.

19 Executed on August 9, 2010, at Fresno, California.

20 
21 Georgina Hernandez

22
23 18147/00000-1601455.v1
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25
26
27
28

1 Gregory S. Mason, # 148997
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(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Petitioners
PAUL RYKEN and ESTATE OF NICK VAN VLIET
7

8 BEFORE THE
9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
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11 In the Matter of the Estate of Nick Van
Vliet and Paul Ryken's Petition for Review
12 of Action and Failure to Act by the
California Regional Water Quality Control
13 Board, Lahontan Region, in Issuing
Cleanup and Abatement Order No. R6V-
14 2008-0341.

Case No.

**DECLARATION OF GREGORY S.
MASON IN SUPPORT OF OBJECTIONS
TO INVESTIGATIVE ORDER NO. R6V-
2010-0028 FOR ADDITIONAL
INFORMATION ON ALTERNATE
WATER SUPPLY EVALUATION; and
PETITION FOR REVIEW AND REQUEST
FOR HEARING TO BE HELD IN
ABEYANCE**

**(Cal. Water Code §§ 13320, 13221,
California Code of Regulation § 2050.5(d))**

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20 I, GREGORY S. MASON , declare as follows:

21 1. I am a partner in the law firm of McCormick, Barstow, Sheppard, Wayte &
22 Carruth LLP, attorneys of record for Petitioners PAUL RYKEN and ESTATE OF NICK VAN
23 VLIET, in the above-captioned action.

24 2. If called and sworn as a witness, I could and would testify competently to the
25 following:

26 3. The office of Conestoga-Rovers and Associates has been retained by Desert View
27 Dairy, as a consultant with regard to the groundwater issues in the above-referenced matter.
28

4. Attached to this Declaration as Exhibit A, is a true and correct copy of a July 2010 report prepared by Conestoga-Rovers and Associates, on behalf of Petitioners, entitled “Technical Evaluation of Existing Data, Desert View Dairy,” which addresses the conclusions that:

(a) There are a number of sources of nitrate and total dissolved solids (TDS) unrelated to the current Desert View Dairy Operations; and

(b) The Land Treatment Units (LTC) operated by Pacific Gas and Electric Company have contributed significantly to elevated nitrate levels in groundwater.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on this 9th day of August 2010, in Fresno, California.

~~Gregory S. Mason~~

1601499.v1

EXHIBIT “A”

DRAFT FOR REVIEW

**TECHNICAL EVALUATION OF EXISTING DATA
DESERT VIEW DAIRY**

Conestoga-Rovers and Associates (CRA) has reviewed existing data that has been obtained through publicly available records that relate to the Desert View Dairy (DVD)¹ property and dairy operation and the regional groundwater remediation being completed by Pacific Gas and Electric (PG&E). Based on our review we have come to two conclusions:

1. There are a number of sources of nitrate and total dissolved solids (TDS) unrelated to the current DVD operations.
2. The Land Treatment Units (LTU) operated by PG&E have contributed significantly to elevated nitrate levels in groundwater.

Each of these items is discussed in detail below.

**THERE ARE A NUMBER OF SOURCES OF NITRATE AND TDS
UNRELATED TO THE CURRENT DVD OPERATIONS**

The entire area surrounding DVD has been used extensively for agricultural purposes since at least 1952. There were at least four other livestock operations up-gradient of DVD along with agricultural cropland and irrigation ponds. These locations are shown on the aerial photos included as Attachment 1. A summary of these aeriels is discussed below:

HISTORICAL AERIAL PHOTO REVIEW

CRA obtained copies of aerial photos from the 1950's to present (specifically 1952, 1970, 1984, 1994 and 2005) that extended 0.5 miles north and south and 1 mile east and west from the Site. These aerial photos were obtained through Historical Information Gatherers, Inc. The purpose of this aerial photo review was to determine what other sources of nitrates may have contributed to the groundwater impact currently being seen in the area. In general, the entire area has been used for agricultural purposes at least since 1952. In addition to the large number of acres fertilized and irrigated for crop production, several livestock/dairy operations are noted throughout this time period. Each aerial photo is summarized below:

1952 Aerial Photo

This aerial shows that the entire area was extensively used as cropland. There are numerous ponds (presumably irrigation ponds) across the area. There also appears to be small livestock operations to the south and southwest of the site with the largest livestock operation located where the Nelson Dairy is currently located. This cropland soil would have required extensive

¹ The term DVD in the context of this technical evaluation refers to the 27-acre irrigation field which is part of the current Dairy operation.

irrigation and fertilization in order to support the crops being grown. It should be noted that irrigation is occurring directly up-gradient of the Thompson Road properties.

1970 Aerial Photo

This aerial photo shows a smaller area of agricultural cropland than before. The majority of the fields are centered around the site. There are still numerous ponds visible and the Nelson Dairy area has expanded in size and a storage pond is evident. There appear to be two livestock operations west of Nelson Dairy approximately 1/4 and 1/2 mile to the west.

1984 Aerial Photo

This aerial photo shows the site developed as a dairy operation with heavy irrigation and cropland surrounding it. The western field does not appear to be cropland and appears stained or wet. The Gorman irrigation pivot is evident along with heavy irrigation in the southern part of that field. The area south of the Site was also heavily irrigated and was presumed to be part of Nelson Dairy which tripled in size compared to the 1970's. The livestock operation 1/4 mile west of Nelson Dairy remained about the same in 1984 while the operation 1/2 mile west (along Serra Road) has doubled in size with what appears to be a storage pond and solid manure stockpiles (this is the Dairy Mr. Ryken stated was owned and operate by the Lysterly's). Another livestock/dairy operation is evident along Hinkley Road and Highway 58 which also has a storage pond and what appears to be solid manure piles. This operation would be up-gradient of the western residential wells. There also appears to be a small operation with irrigation at the site of one of the residential wells along Thompson Road (22875 Thompson Road). Further west on Thompson Road was another heavily irrigated area that was presumed to be cropland but is located near 22726 Thompson Road. Both of these residential wells had higher elevations of nitrates than the surrounding neighbors as measure in October 2008.

1994 Aerial Photo

The 1994 aerial photo showed a continued decrease in agricultural cropland as well as irrigation. The dairies to the west were present but the land around those dairies did not appear to be heavily irrigated. The area along Thompson Road continued to be heavily irrigated. It should be noted that the 1994 photo is black and white; hence, the contrast between active agricultural operations (irrigation) and inactive was difficult to determine.

2005 Aerial Photo

The 2005 aerial photo showed a continued decrease in agricultural cropland as well as irrigation. The only land that appeared to be in production are the fields that were irrigated as part of the chromium groundwater treatment which are immediately up-gradient of Desert View Dairy. The dairies to the west were present but the land around those dairies does not appear to be irrigated. There appeared to be a large stockpile of manure immediately south of Nelson Dairy, which was there for several years according to Mr. Ryken. The area along Thompson Road continues to be heavily irrigated as well.

Another source of nitrates is the western field on the DVD site. The prior operator of the Site (Flameling Dairy) used the western field as a storage site for both solid and liquid dairy waste since 1981. This area is considered a significant source of nitrates because Mr. Ryken has stated

that it was heavily impacted by manure prior to DVD operations in 1994. This field has been used as a land application area for PG&E's groundwater remedy since 2004.

In addition to the aerial photo review, CRA examined nitrate and TDS data in groundwater which was provided by CH2MHill. Figure 1 shows the maximum TDS concentrations, which exceeded the State TDS standard of 1,000 mg/L. The general groundwater flow pattern is northerly with minor influences due to pumping at irrigation and water supply wells. This means that areas to the south of DVD are upgradient of DVD. Wells, both up-gradient and down-gradient of DVD, are over the secondary drinking water standard for TDS. Figure 2 shows the nitrate exceedences from the same data base. There are a significant number of wells up-gradient of DVD that are over the State nitrate standard of 45 mg/l.

The fact that nitrate and TDS exceedences in groundwater are present upgradient of DVD shows that contaminant sources, other than DVD, exist and are impacting groundwater.

PG&E'S LAND TREATMENT UNITS (LTU) HAVE CONTRIBUTED SIGNIFICANTLY TO NITRATES GROUNDWATER

The groundwater discharge being performed by PG&E on land located south and west of DVD involves the application of groundwater which is part of the PG&E chromium remediation project. There are currently several active extraction wells that pump an average of 400,000 gallons per day², which is discharged to an 80-acre parcel of land. This extraction/discharge system has been in operation since August 2004 and the historical concentrations of nitrate in the discharged water range from 9.15 to 12.9 mg/L nitrate as N. If these values are converted to nitrate as nitrate, the concentration ranges from 40.5 to 57.1 mg/L. Applying the highest concentration of 57.1 mg/L and the estimated volume of water being discharged (400,000 gallons/day), PG&E is applying 2.4 pounds of nitrate/acre/day.

In contrast, DVD discharges much less nitrate compared to PG&E. The washwater from DVD is run through a solids separator, the solids are transported off-site for use as fertilizer by other agricultural operations. The liquids are contained in concrete tanks for land application as irrigation water. The water is applied daily to approximately 27 acres of cropland through a center pivot spray gun. DVD estimates that approximately 45,000 gallons of water are currently being applied on a daily basis to this field. The sampling data provided by DVD show a nitrate concentration in the range of ND to 4 mg/L nitrate as N. If these values are converted to nitrate as nitrate, the concentration range is ND to 17.7 mg/L. Assuming the highest concentration (17.7 mg/L nitrate as nitrate) and 45,000 gallons per day discharged to the 27-acre irrigation field, DVD is applying approximately 0.25 pounds of nitrate/acre/day.

Given the above, PG&E and DVD discharges/show that the PG&E remedy discharges approximately ten times the mass of nitrate per acre compared to current DVD operations. The continuous pumping and discharge may have also affected the nitrate concentrations in the area. Not only is the PG&E discharge more significant than the DVD discharge, the PG&E

² CH2MHill 2007 Annual Monitoring Report

discharge is applied to the western field, which received heavy manure application prior to DVD.

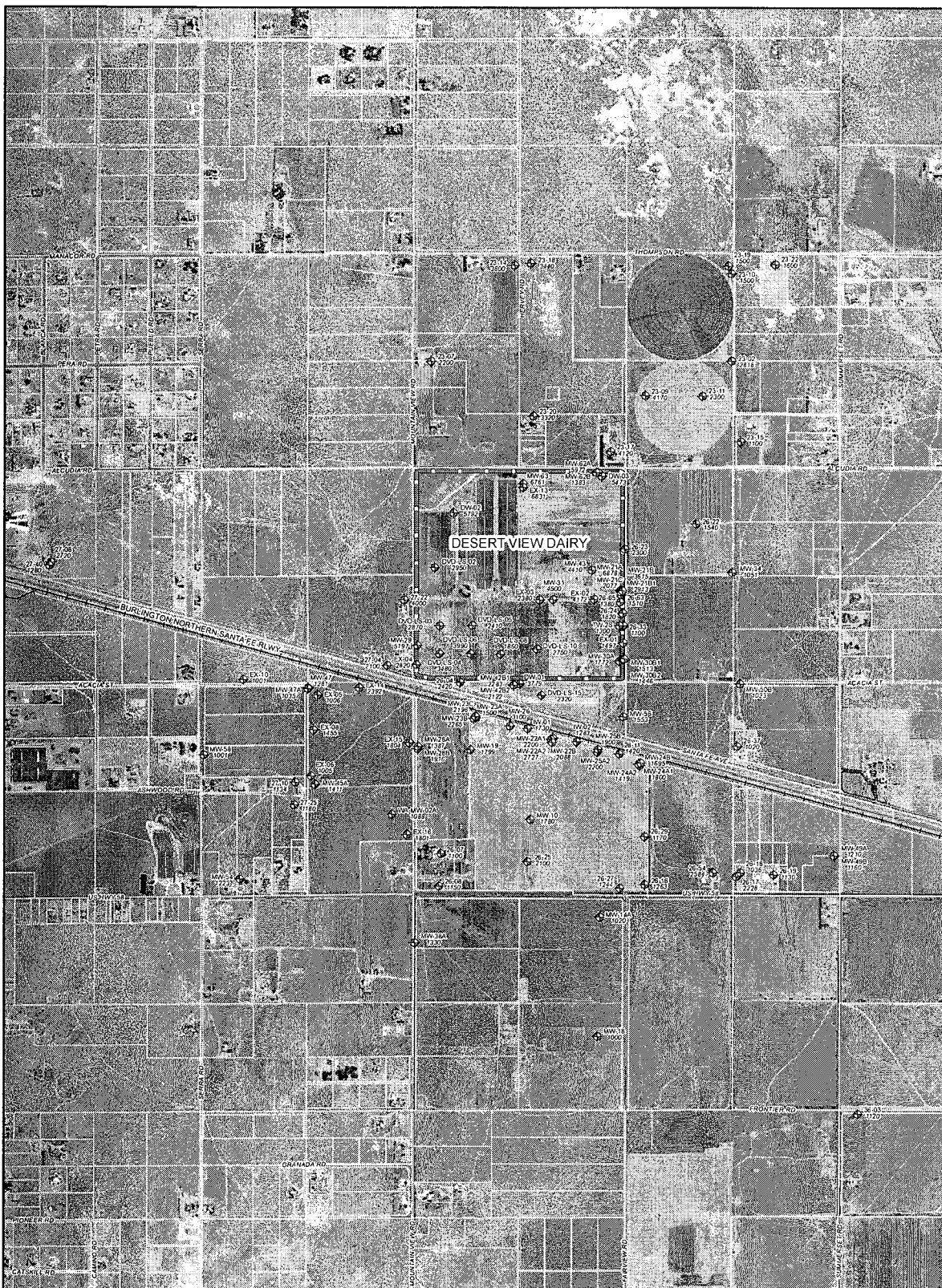
CRA has also concluded that the PG&E discharge of water to the LTU has flushed nitrate out of the soil and into the groundwater based on the following evaluation.

In the 2005 Annual Monitoring Report dated July, 2005 it was stated that the percolation of discharged groundwater should not reach the water table aquifer for several years. However, CRA was unable to locate any data to support this statement. CRA plotted the nitrate data provided for on-site monitoring wells DW-01, DW-02 and DW-03 and the nitrate data for lysimeters DVD-LS-02, 03, 04, 05, 10 and 15. These graphs are presented in Attachment 2. In both cases the nitrate concentrations increased shortly after PG&E began discharging water to the LTU. The lysimeter data peaked then decreased (as you would expect after the initial flush of the unsaturated soil) and the monitoring wells (DW-01, 02 and 03) continued to increase. This increase was first noticed in the lysimeters approximately 12 months after discharge began then in the monitoring wells approximately 16 to 24 months after discharge began. These data suggest a much faster infiltration rate than originally predicted and could be much less than the several year estimate given by PG&E.

CONCLUSIONS





Given the above, CRA has come to two conclusions:

1. There are a number of sources of nitrate and total dissolved solids (TDS) unrelated to the current DVD operations.
2. The Land Treatment Units (LTU) operated by PG&E have contributed significantly to elevated nitrate levels in groundwater.



SOURCE: USDA - NATIONAL AGRICULTURE IMAGERY PROGRAM

LEGEND

-  WELL WITH DRINKING WATER
STANDARD EXCEEDANCE (1000 mg/L)
-  1034 MAXIMUM TOTAL DISSOLVED SOLIDS
CONCENTRATION (mg/L)
-  DESERT VIEW DAIRY
-  COUNTY PARCELS

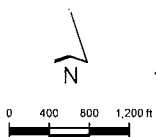


figure 1
TOTAL DISSOLVED SOLIDS (TDS) DRINKING
WATER STANDARD EXCEEDANCES
DESERT VIEW DAIRY
Hinkley, California



SOURCE: USDA - NATIONAL AGRICULTURE IMAGERY PROGRAM

LEGEND

- ◆ WELL WITH DRINKING WATER STANDARD EXCEEDANCE (45 mg/L)
- 56.4 MAXIMUM NITRATE-NO₃ CONCENTRATION (mg/L)
- DESSERT VIEW DAIRY
- PLOT BOUNDARY
- COUNTY PARCELS

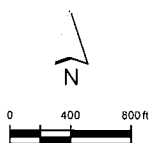
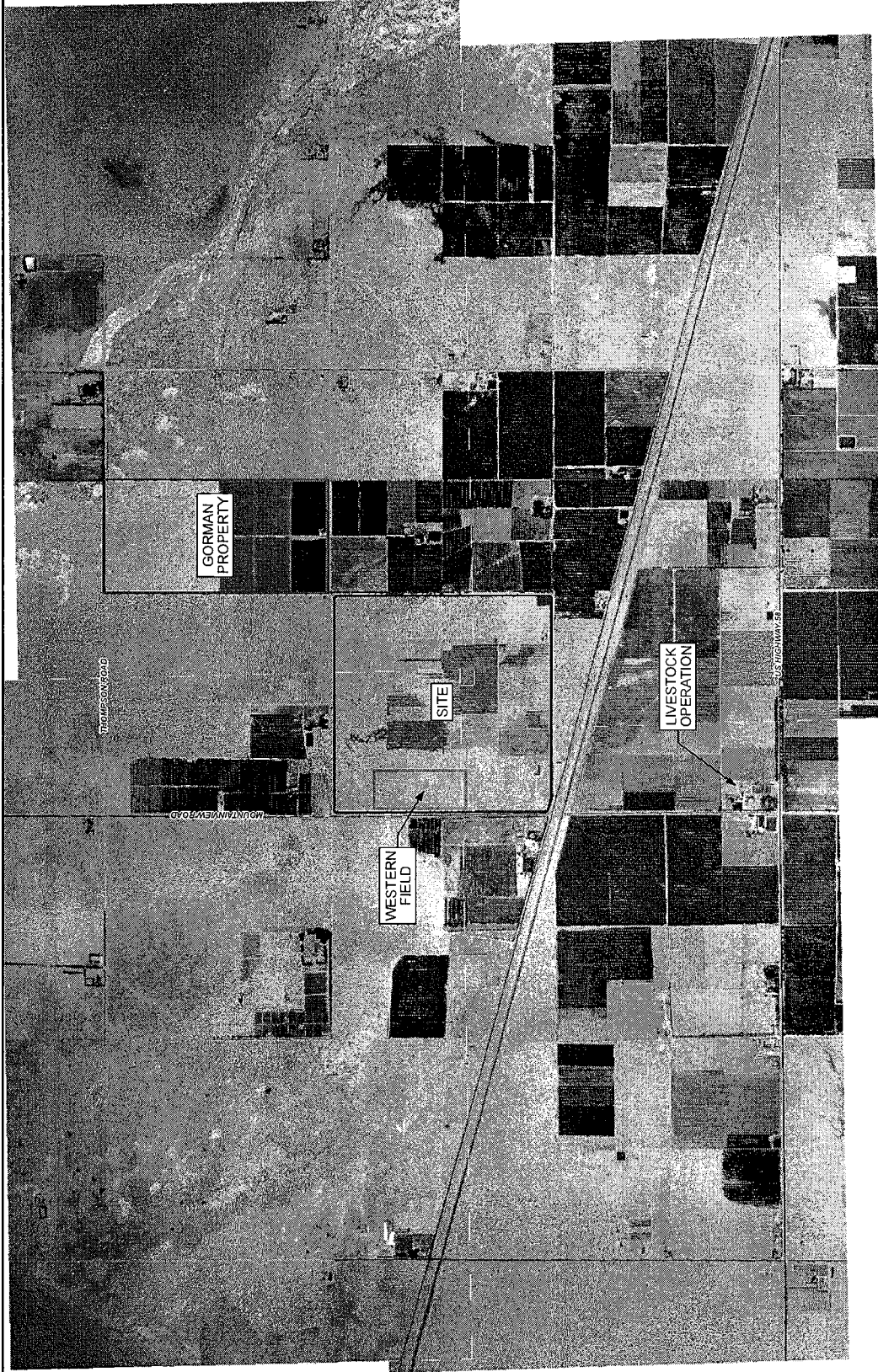
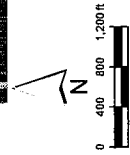


figure 2
NITRATE-NO₃ DRINKING WATER
STANDARD EXCEEDANCES
DESSERT VIEW DAIRY
Hinkley, California

ATTACHMENT 1
AERIAL PHOTOGRAPHS



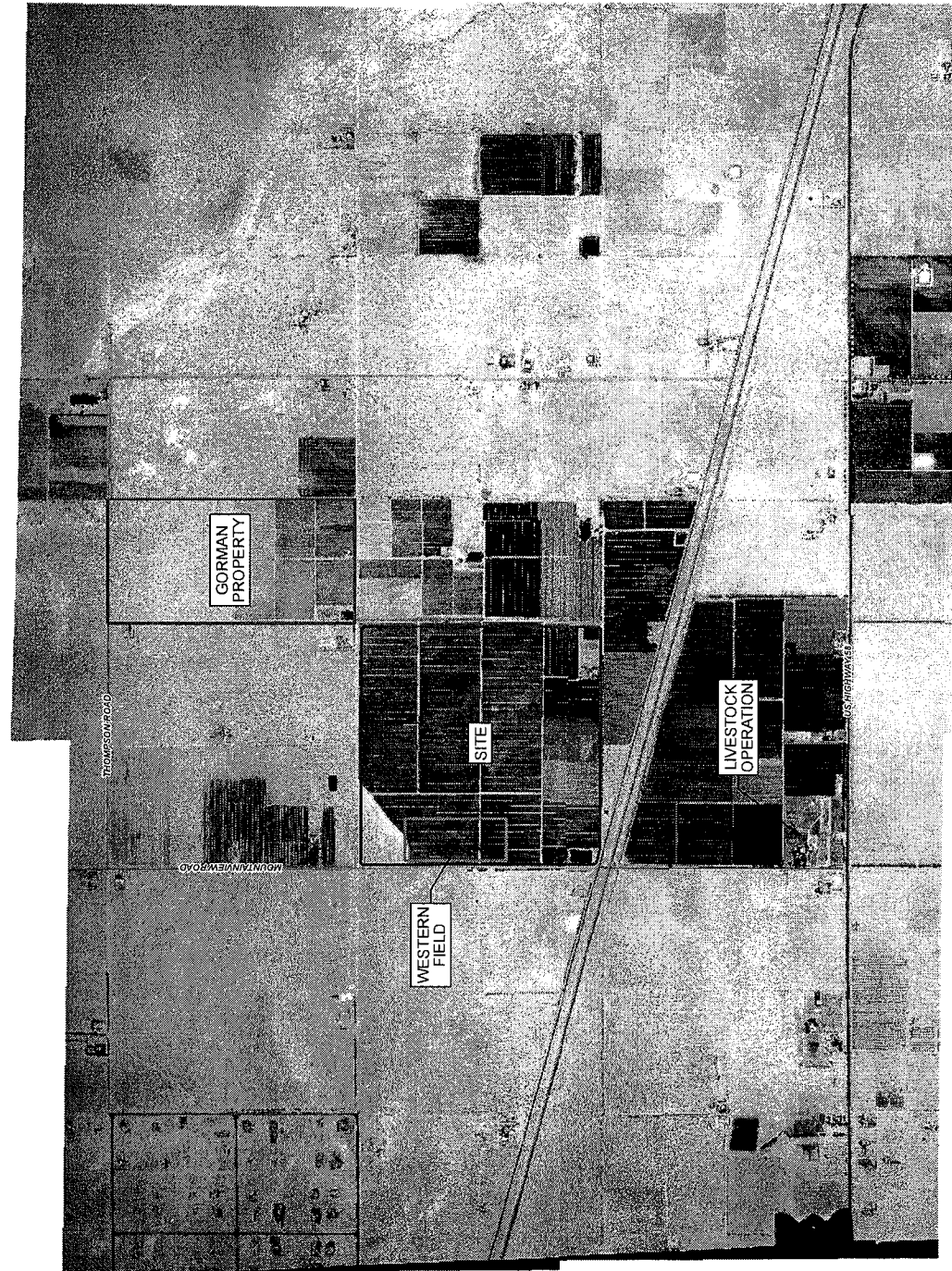
NOTE: DARK AREAS ARE IRRIGATED LAND



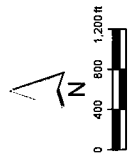
1952 AERIAL PHOTO
DESERT VIEW DAIRY
37501 MOUNTAINVIEW ROAD
Hinkley, California



05-4041-06(MISC002)GIS-SP005 JUL 21/2010

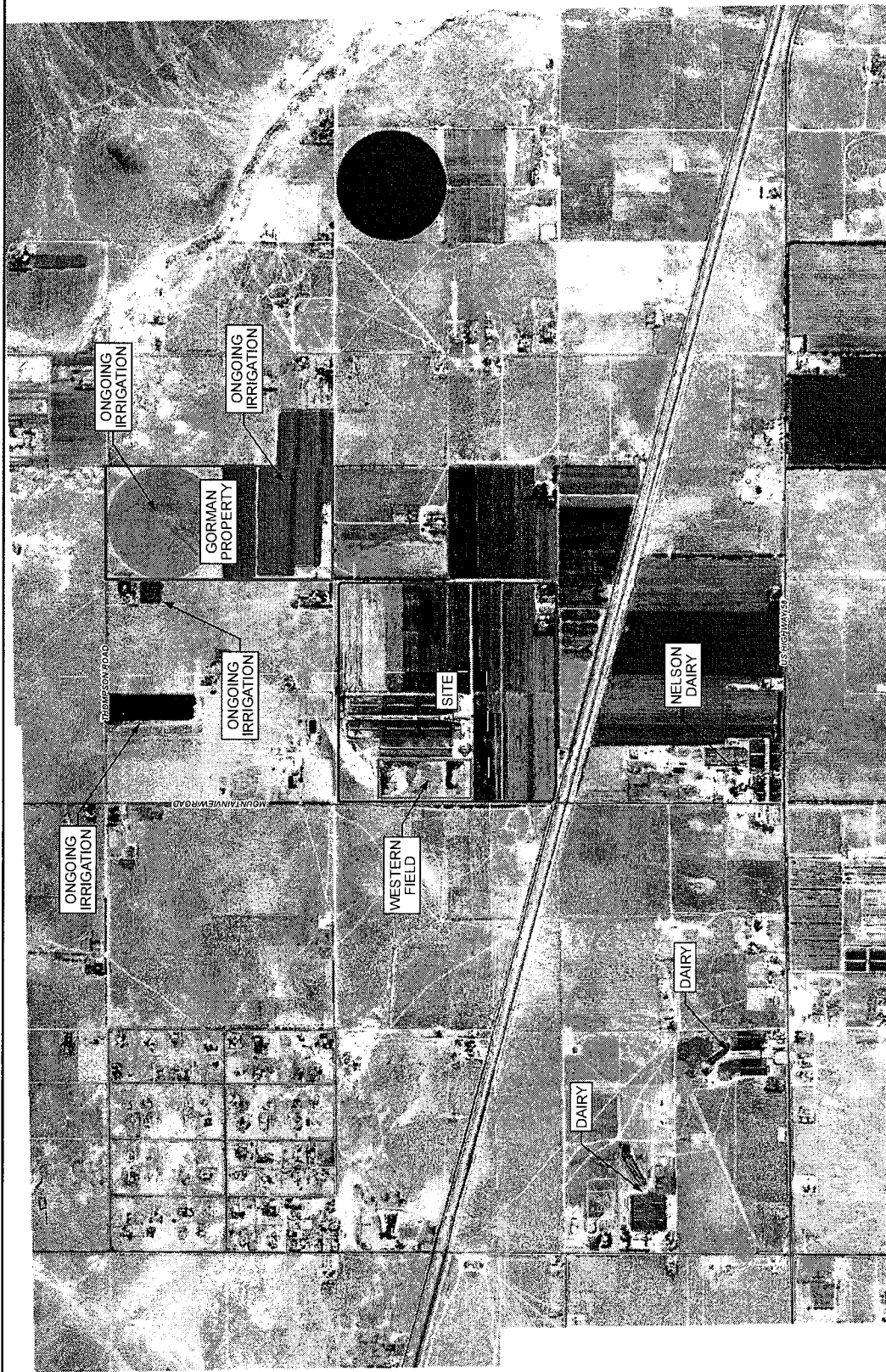


NOTE: DARK AREAS ARE IRRIGATED LAND

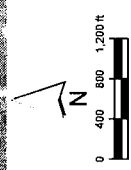


1970 AERIAL PHOTO
DESERT VIEW DAIRY
37501 MOUNTAINVIEW ROAD
Hinkley, California



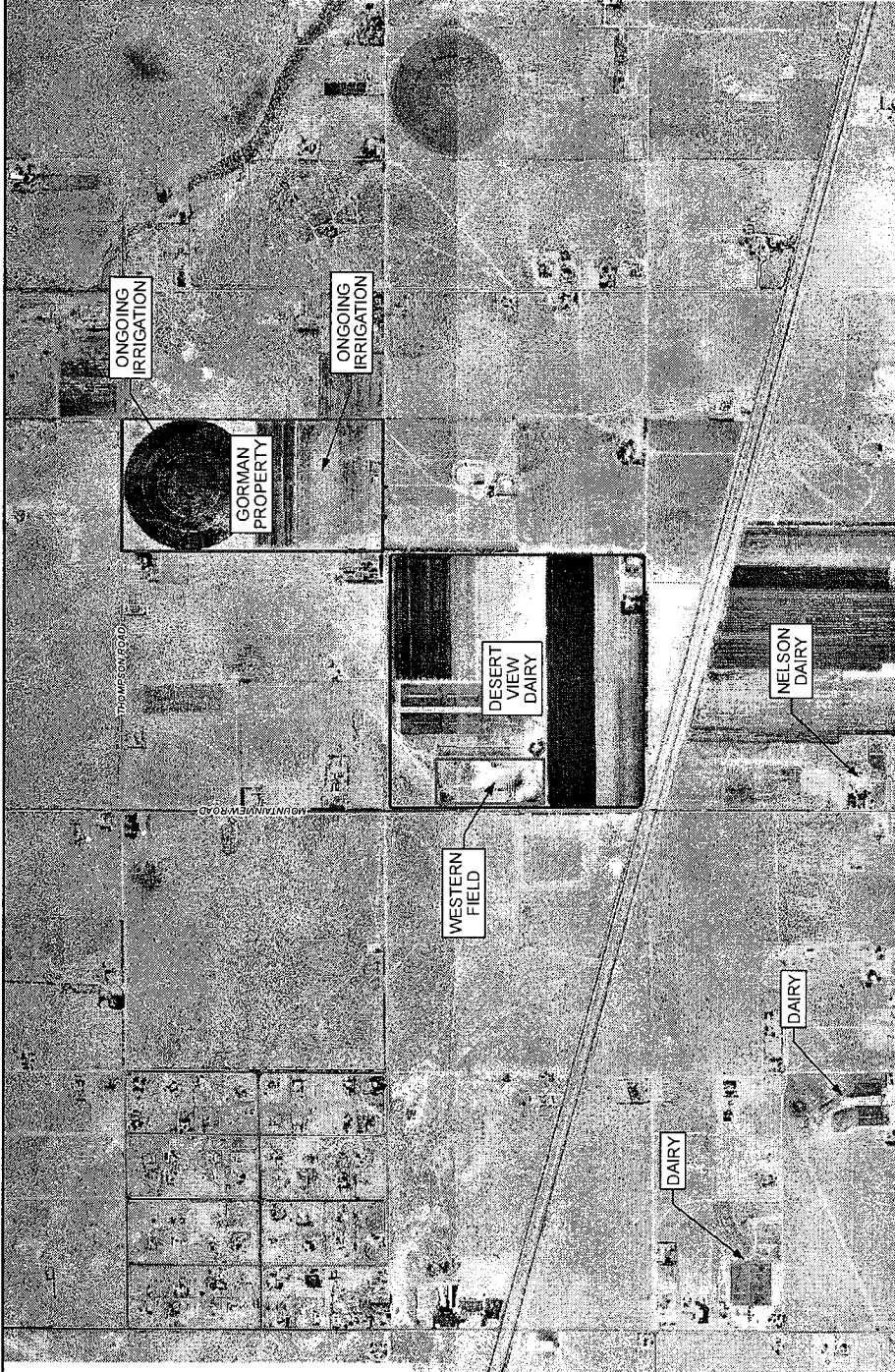


NOTE: DARK AREAS ARE IRRIGATED LAND

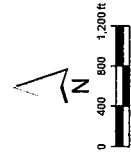


1984 AERIAL PHOTO
DESERT VIEW DAIRY
37501 MOUNTAINVIEW ROAD
Hinkley, California





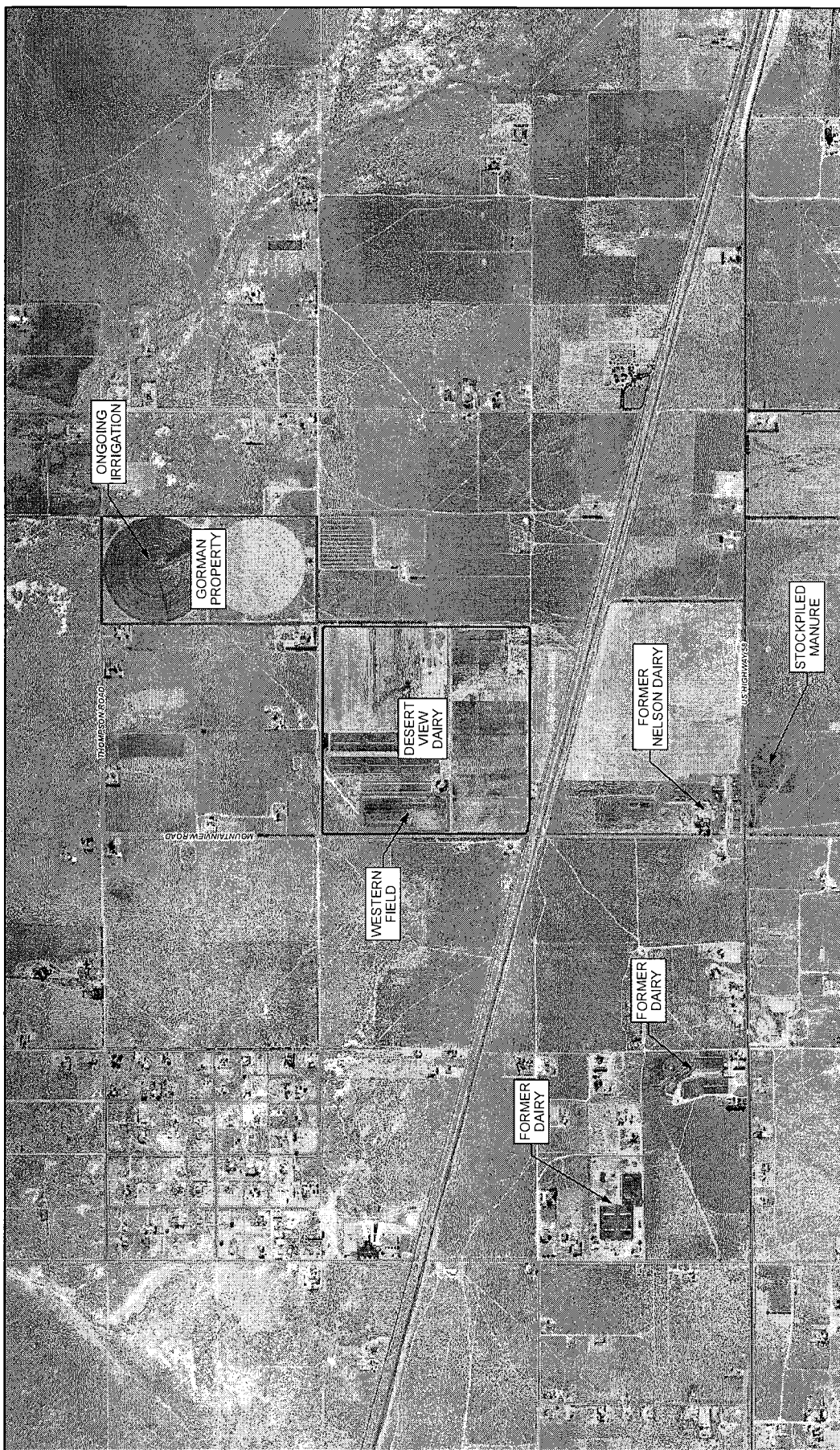
NOTE: DARK AREAS ARE IRRIGATED LAND



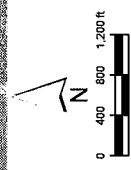
1994 AERIAL PHOTO
DESERT VIEW DAIRY
37501 MOUNTAINVIEW ROAD
Hinkley, California



054041-06(MISC002)GIS-SP002 JUL 21/2010



NOTE: DARK AREAS ARE IRRIGATED LAND



2005 AERIAL PHOTO
DESERT VIEW DAIRY
37501 MOUNTAINVIEW ROAD
Hinkley, California

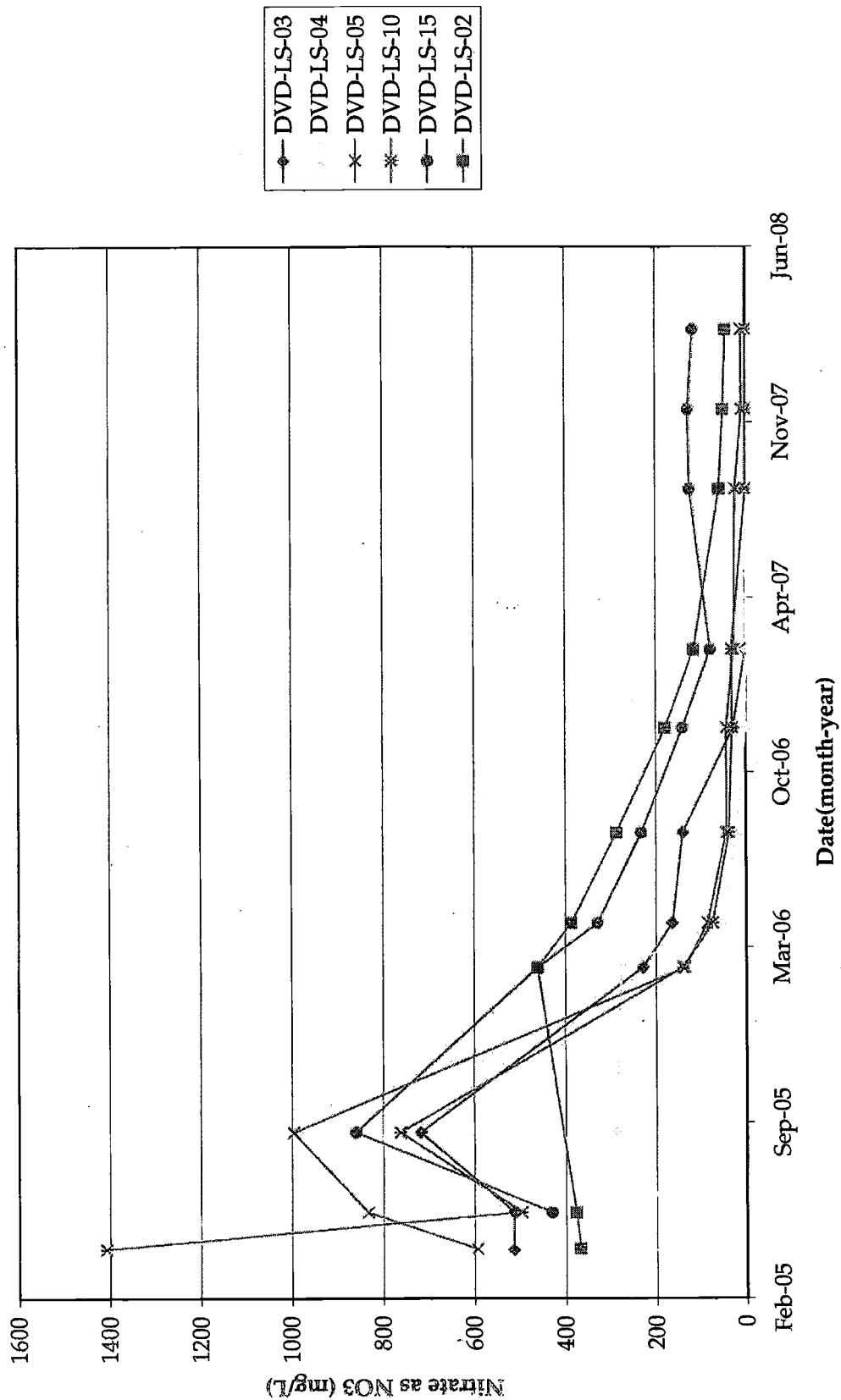


054041-06(MISC002)GIS-SP001 JUL 21/2010

ATTACHMENT 2

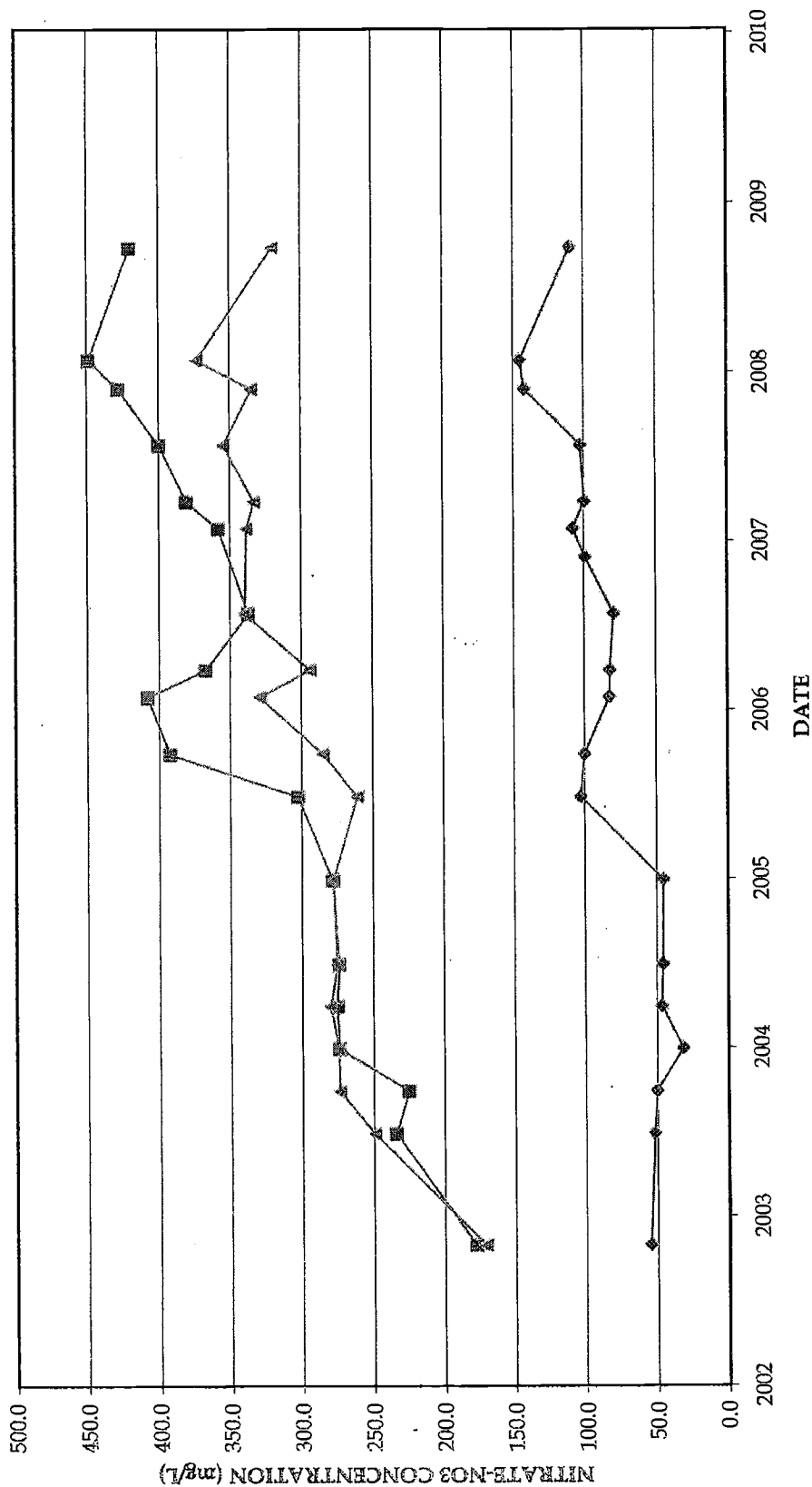
LYSIMETER AND MONITORING WELL GRAPHS

Lysimeter Samples



NITRATE-NO3 CONCENTRATIONS
DESERT VIEW DAIRY
HINKLEY, CALIFORNIA

—◆— DW-01 —■— DW-02 —▲— DW-03





California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

JUL 08 2010

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Desert View Dairy
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600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689

Flameling Dairy, Inc.
c/o Bert and Kathleen A. Flameling
2088 Candlewood Avenue
Twin Falls, ID 83301-8338

K&H Van Vliet Children LLC
c/o Nellie Ruisch
23925 Waalew Road
Apple Valley, CA 92307-6932

Robert Doss
Mail Code B16A
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105-1814

**INVESTIGATIVE ORDER NO. R6V-2010-0028 FOR ADDITIONAL INFORMATION ON
ALTERNATE WATER SUPPLY EVALUATION, HINKLEY, SAN BERNARDINO
COUNTY—AMENDED CLEANUP AND ABATEMENT ORDER (CA0) NO. R6V-2008-
0034A2**

On April 20, 2010, the Lahontan Water Board received the *Alternate Water Supply Evaluation (Evaluation)*, pursuant to order No. 1 of CAO R6V-2008-0034A2. The CAO was issued to the responsible parties of the Desert View Dairy (DVD) for nitrate pollution of groundwater affecting beneficial uses. The Evaluation describes three options for providing alternate water supply to off-site affected residents: treatment of existing groundwater supplies using reverse osmosis, providing a new community water supply, and providing new individual replacement water supply wells.

California Environmental Protection Agency



Recycled Paper

Comments

Water Board staff's review of the Evaluation, prepared by Conestoga-Rovers, finds it to be incomplete. The Evaluation does not provide a recommended option and schedule for implementation of a long-term alternate water supply as required in order No. 1 of CAO R6V-2008-0034A2. The responsible parties have therefore not fully complied with the Cleanup and Abatement Order and maybe subject to additional enforcement action.

Due to the incomplete nature of the Evaluation, I am directing the responsible parties for the DVD to submit additional information to the Water Board. Because the time to submit this additional information will extend the schedule for implementing the selected long-term water supply alternative, I am also requiring that you provide a workplan to supply *interim* water for all domestic uses to the affected residents that complies with the July 30, 2010 deadline in order No. 2 of CAO R6V-2008-0034A2.

Report Justification

Water Board staff believes that, in light of the following facts, there is evidence to support ordering that technical reports be provided in this particular situation.

1. Groundwater in the area has a designated beneficial use of municipal and domestic water supply, agricultural supply, and industrial supply.
2. Concentrations of nitrate as NO_3 reported in groundwater at domestic wells and monitoring wells located on the DVD and in the off-site downgradient flow direction, significantly exceed the California primary maximum contaminant level (MCL) of 45 mg/L, making the groundwater unsuitable for drinking and other domestic and municipal uses.
3. Concentrations of TDS, chloride, sulfate, and sodium reported in groundwater at domestic wells and monitoring wells located on the DVD and in the off-site downgradient flow direction (finding No. 3 of CAO), significantly exceed the California secondary MCL for each constituent, making the groundwater unsuitable for drinking and other domestic and municipal uses.
4. A complete evaluation describing alternative water supply implementation for long-term, uninterrupted, replacement water is necessary to consider the feasibility, capital and operation costs, and implementation schedule of each alternative in determining the appropriate course of action.

Responsible Parties

As stated in CAO R6V-2008-0034A2, operators of the Desert View Dairy, Mr. Paul Ryken and the Estate of Nick Van Vliet, and the past operator, Flameling Dairy Inc., are primarily responsible for complying with the requirements of this Investigative Order because they caused or contributed to the pollution and degradation of groundwater



from discharges at the Dairy. The owners of the Desert View Dairy, the K&H Van Vliet Children LLC and Pacific Gas and Electric Company, are secondarily responsible for complying with the requirements of this order because they are ultimately responsible for activities at the Dairy. This order of responsibility is also appropriate for this investigative order.

Order

Pursuant to Water Code section 13267, the responsible parties listed in this letter are required to submit to the Water Board the following technical reports:

1. **By July 23, 2010**, a plan and schedule to provide interim water supply to the affected residents for all indoor and outdoor domestic uses **by July 30, 2010** or as soon as feasible. Indoor and outdoor domestic uses include drinking, cooking, bathing, washing, appliances, domestic animals, landscaping, and similar uses. Interim water supply, for example, may be potable water that is trucked to residences and stored in temporary storage tanks. Interim water supply shall be provided continuously until a long-term water supply alternative is implemented and operational.
2. **By August 9, 2010**, an evaluation of alternative water supply implementation for long-term, uninterrupted, replacement water, for residences with domestic wells having polluted groundwater that complies with order No. 1 in CAO R6V-2008-0034A2. The evaluation must contain these items and discussions:
 - a. Determination of replacement water quantity needs for each individual property adversely affected by nitrates.
 - b. Reverse osmosis waste water: quantity (specify time period), quality (expected concentrations of salts), and how it will be stored and disposed such that water quality is protected.
 - c. Hydrogeologic assessment of replacement wells: how and when will you determine if suitable water quality and quantity exists beneath properties proposed for deep wells.
 - d. Proposed use of Gorman Well No. 6: any agreement for the well's use, well design and aquifer details, water quality (concentrations of nitrate, salts and chromium), and available quantity.
 - e. Estimated capital and annual operational costs for implementing each alternative, including associated equipment, utilities, and replacement costs. How will the long-term funding be guaranteed?
 - f. A recommended option and schedule for implementation of a long-term alternate water supply.

All technical documents that include engineering calculations and/or geologic or hydrogeologic evaluations submitted to the Water Board must be signed by a California licensed geologist or civil engineer.

California Environmental Protection Agency

Please be sure that a copy of all documents sent to the Water Board's South Lake Tahoe office are also sent to the Water Board's Victorville office at: 14440 Civic Drive, Suite 200, Victorville, California 93292.

If you have any questions, please contact Lisa Dernbach at (530) 542-5424 (ldernbach@waterboards.ca.gov) or Chuck Curtis at (530) 542-5460 (ccurtis@waterboards.ca.gov).



HAROLD J. SINGER
EXECUTIVE OFFICER

Enclosures: Section 13267 Fact Sheet

cc: Desert View Dairy Mailing list

lsd/ke/T: DVD alternate water eval letter 6-29-10 lsd
file: WDIID 6B36040900 (VVL)



**Fact Sheet – Requirements for Submitting Technical Reports
Under Section 13267 of the California Water Code
October 8, 2008**

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Claim of Copyright or other Protection

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

If I have more questions, who do I ask?

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov. Copies of the regulations cited are available from the Regional Board upon request.

Desert View Dairy Mailing List

ERIC P. JOHNSON
PACIFIC GAS & ELECTRIC
COMPANY

ERROL NIEBERT

J. AGUAYO & J. RUNKLE

DREW PAGE

ROBERT CONAWAY

ROGER AND JEANETTE SANDOZ

DAVE GILBERT
PACIFIC GAS AND ELECTRIC

ED RIDDEL

RAY & BARBARA GROVEAU

DAVID COUPE
SWRCB /OCC

KENNETH J BORTNER

SHAIR THOMAS

SAN BERNARDINO CO,
DIV. OF ENV. HEALTH SERVICES

TOM CARY

ALBERT & LORI JACKSON

GORMAN TRUST

PAUL D. WATERS

JOSEPH GISLER

MCHENRY COOK

GREG & ELAINE KEARNEY

HERBERT V NETHERY

ROSEMARY MUNOZ

GORMAN TRUST

BENJAMIN ZEPEDA

D NORMAN DIAZ
HELPHINKLEY.ORG

DEANNA SERRECCHIA
C/O ELAINE SERRECCHIA

BOB AND KARLA WARNER

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**DECLARATION OF GREGORY S. MASON IN SUPPORT OF OBJECTIONS TO
INVESTIGATIVE ORDER NO. R6V-2010-0028 FOR ADDITIONAL INFORMATION
ON ALTERNATE WATER SUPPLY EVALUATION; and PETITION FOR REVIEW
AND REQUEST FOR HEARING TO BE HELD IN ABEYANCE**

- Jeannette L. Bashaw (E-Mail & hard copy)
Phil Wyels (E-Mail & hard copy)
Legal Analyst
Office of Chief Counsel
State Water Resources Control Board
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Harold J. Singer, Executive Officer
California Regional Water Quality
Control Board
Lahontan Region
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South Lake Tahoe, CA 96150

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c/o Nellie Ruisch
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2 Mail Code 816A
3 Pacific Gas and Electric Company
4 77 Beale Street
5 San Francisco, CA 94105-1814

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c/o Gary B. Genske
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5 Paul Ryken
6 Desert View Dairy
7 37501 Mountain View Road
8 Hinkley, CA 92347

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10 800 Wilshire Blvd., 15th Floor
11 Los Angeles, CA 90017-2619

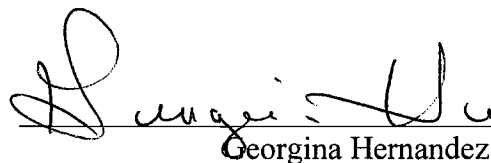
Michael D. May
Attorney at Law
532 West First Street, Ste. 209
Claremont, CA 91711

11 Robert Doss
12 Mail Code B16A
13 Pacific Gas and Electric Company
14 77 Beale Street
15 San Francisco, CA 94105-1814

14 I am readily familiar with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
16 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
17 am aware that on motion of the party served, service is presumed invalid if postal cancellation
18 date or postage meter date is more than one day after date of deposit for mailing in affidavit.

17 I declare under penalty of perjury under the laws of the State of California that the
18 above is true and correct.

19 Executed on August 9, 2010, at Fresno, California.

20 
21 Georgina Hernandez

22
23 18147/00000-1601455.v1
24
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26
27
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